

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ABBOTT LABORATORIES and
ADVANCED CARDIOVASCULAR
SYSTEMS, INC.,

Plaintiffs,

V.

C.A. No. 06-613-SLR

JOHNSON AND JOHNSON INC. and
CORDIS CORPORATION,

Defendants.

MOTION TO DISMISS

Pursuant to Federal Rule of Civil Procedure 12(b)(1), Defendants Johnson & Johnson Inc. and Cordis Corporation respectfully move to dismiss this action for lack of subject matter jurisdiction. The grounds for this motion are set forth in the accompanying opening brief and declarations.

ASHBY & GEDDES

/s/ *John G. Day*

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Dated: December 13, 2006
176094.1

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of December, 2006, the attached **MOTION TO DISMISS** was served upon the below-named counsel of record at the addresses and in the manner indicated:

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VIA ELECTRONIC MAIL

/s/ John G. Day

John G. Day